

- (1) Whether the relationship of employer/employee existed between claimant and respondent at the time of the alleged accidental injury.
- (2) What temporary total disability compensation, if any, should be awarded to claimant.

- (3) Whether claimant should be entitled to payment for past medical expenses.

ISSUES

Respondent's Application for Review lists two issues:

- (1) Whether or not the relationship of employer/employee existed between claimant and respondent at the time of the alleged accidental injury.
- (2) Whether or not claimant should be entitled to be reimbursed for past medical expenses that were incurred.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds and concludes that claimant has sustained his burden of establishing that he was an employee of the respondent at the time of his work-related injury. The Appeals Board so finds for the reasons stated in the Award by the Administrative Law Judge. The findings and conclusions in that Award are hereby adopted by the Appeals Board as its own. In summary, the Appeals Board finds the evidence establishes respondent had the right to control the manner in which the claimant performed his work. Falls v. Scott, 249 Kan. 54, 815 P. 2d 1104 (1991).

The Appeals Board also concludes that the medical expenses itemized in the record should be paid by respondent. Although they were not authorized at the time they were incurred, the case has now been determined to be a compensable claim. The employer is liable for the medical care procured by the claimant in accordance with rules stated in Cross v. Wichita Compressed Steel Co., 187 Kan. 344, 356 P. 2d 804 (1960).

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Robert H. Foerschler dated December 18, 1995, should be, and the same is hereby, affirmed.

AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Michael A. Selleck, and against the respondent, Total Door Company, and its insurance carrier, American States Insurance, for an accidental injury which occurred September 22, 1993.

As of December 18, 1995, the claimant is entitled to an award of 10.5 weeks at the rate of \$313.00 per week, in the amount of \$3,286.50 for a 7% loss of use of the right hand.

The claimant is also awarded expenses of \$765.87 to the hospital, \$100.00 for the emergency room physician and \$2,672.00 for Dr. Bennett's charges.

Costs of transcripts in the record are taxed against respondent and its insurance carrier as follows:

Hostetler & Associates, Inc.	\$255.75
Metropolitan Court Reporters, Inc.	\$423.35

IT IS SO ORDERED.

Dated this ____ day of June 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Steven C. Effertz, Independence, MO
John David Jurcyk, Lenexa, KS
Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director